

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

99.5099

**FIRST PREFERENCE PRODUCTS
CORPORATION, CEREAL
BYPRODUCTS COMPANY**

Plaintiff,

VS.

**POWERS & STINSON, a Mississippi
Corporation; POWERS & STINSON, a
Tennessee Corporation; NATIONAL
BANKERS TRUST CORPORATION; THE
TRANSPORT FIRM, INC.; E.A.
NICHOLS, ESQ., Individually; THE LAW
OFFICE OF E.A. NICHOLS, P.C. and
NICHOLS LAW OFFICE, P.C.,**

NO. 2-13-CV-02515 - SHM/dkv

Defendants.

**STIPULATION OF DISMISSAL AS TO COUNTS 9, 10 AND 11 OF SECOND
AMENDED COMPLAINT**

The parties, pursuant to Federal Rule of Civil Procedure 41(a), stipulate and have agreed that Counts 9 (Abuse of Process) and 10 and 11 (Vicarious Liability) of Plaintiffs' Second Amended Complaint are hereby dismissed with prejudice.

On March 24, 2015, this Court entered the "Order Granting in Part and Denying in Part Defendants' Motions to Dismiss."¹ In that Order, this Court granted Defendants' Motions to Dismiss multiple counts contained in Plaintiffs' Second Amended Complaint. However, this

¹ See Doc. 119, "Order Granting in Part and Denying in Part Defendants' Motions to Dismiss"

Court denied Defendants' Motion to Dismiss Count 9 of the Second Amended Complaint (Abuse of Process) and Counts 10 and 11 (Vicarious Liability) the Second Amended Complaint.²

By stipulation of the parties, Count 9 of the Second Amended Complaint for Abuse of Process is dismissed with prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. Further, upon approval of that stipulation as to dismissal of Count 9, the parties further stipulate that Counts 10 and 11 of the Second Amended Complaint (Vicarious Liability) be dismissed with prejudice.

Upon Court–approval of this Stipulation dismissing the remaining Counts, the parties further assert that entry of an Order of Final Judgment pursuant to Federal Rules of Civil Procedure 54 and 58 is then appropriate. The parties further agree that each party will bear its own costs and expenses, including attorneys' fees.

Respectfully submitted January 4, 2016.

Respectfully submitted,

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² Id., p. 12,13

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CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing has been served upon opposing counsel for all parties or all parties individually as follows,

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on January 4, 2016.

/S/ R. SCOTT McCULLOUGH

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